

Craig K. Perry
Nevada Bar No. 3786
CRAIG K. PERRY & ASSOCIATES
6210 N. Jones Blvd. #753907
Las Vegas, Nevada 89136-8985
Telephone: (702) 228-4777
Facsimile: (702) 943-7520
cperry@craigperry.com

Chris R. Miltenberger, Esquire
The Law Office of Chris R. Miltenberger, PLLC
1360 N. White Chapel, Suite 200
Southlake, Texas 76092-4322
817-416-5060 (office)
817-416-5062 (fax)
chris@crmlawpractice.com
Subject to Pro Hac Vice

Eric H. Weitz, Esquire
Max S. Morgan, Esquire
THE WEITZ FIRM, LLC
1515 Market Street, #1100
Philadelphia, PA 19102
Tel: (267) 587-6240
Fax: (215) 689-0875
max.morgan@theweitzfirm.com
eric.weitz@theweitzfirm.com
Subject to Pro Hac Vice

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WAYAN GARVEY, *on behalf of himself and
all others similarly situated,*

Plaintiff,

v.

KELLER WILLIAMS REALTY, INC. AND
BRITNEY GAITAN,

Defendants.

Civil Case No.: 2:23-cv-00920-APG-DJA

**STIPULATION AND ORDER TO
EXTEND DEADLINES**

(RENEWED FIRST REQUEST)

Pursuant to Fed. R. Civ. P. 26, LR IA 6-1 and LR 26-3, Plaintiff Wayan Garvey (“Mr. Garvey” or “Plaintiff”) and Defendant Britney Gaitan (“Gaitan”) by and through their respective counsel of record, respectfully submit the following renewed stipulation to extend the remaining deadlines in the case by three (3) months, as shown in the chart set forth below.

The renewed stipulation to extend the remaining deadlines does not seek to extend the deadline for amending the pleadings or adding parties as part of this stipulation.

Event	Current Deadline	Proposed Deadline
Class Certification Expert Disclosures	November 4, 2024	February 3, 2025
Class Certification Rebuttal-Expert Disclosures	December 2, 2024	March 3, 2025
Class Certification Motion	December 16, 2024	March 17, 2025
Liability Expert Report Disclosure	April 14, 2025	July 14, 2025
Liability Expert Rebuttal Report Disclosure	May 12, 2025	August 11, 2025
Discovery cutoff	June 16, 2025	September 15, 2025
Dispositive motions	July 14, 2025	October 13, 2025
Pretrial Order	August 11, 2025	November 10, 2025

I. DISCOVERY COMPLETED¹

1. Plaintiff served his Requests for Production and First Set of Interrogatories on Defendant Gaitan on May 14, 2024.

2. Defendant Gaitan responded to Plaintiff’s Requests for Production and First Set of Interrogatories on June 28, 2024.

3. Defendant Gaitan served her Initial Disclosures on June 28, 2024.

4. Plaintiff served his initial disclosures on July 9, 2024.

5. Defendant Gaitan served her First Supplemental Disclosure on October 16, 2024.

6. On July 26, 2024, the parties filed a Request for Order to Enter Stipulated Protective Order. [ECF No. 60].

¹ On November 1, 2024, Plaintiff dismissed Keller Williams Realty, Inc. (“KWRI”) from this action without prejudice. Plaintiff omits, from this recitation, the jurisdictional discovery conducted with respect to KWRI.

1 7. On July 30, 2024, the Court granted in part and denied in part the parties Stipulated
2 Protective Order. [ECF No. 63].

3 8. On October 16, 2024, Plaintiff took the deposition of Defendant Gaitan.

4 9. Following Defendant Gaitan's deposition, Mr. Garvey issues subpoenas *duces*
5 *tecum* to (i) HighLevel, Inc. (the software platform that Ms. Gaitan used to send the messages at
6 issue); (ii) Kai Data, LLC (a lead vendor used by Ms. Gaitan); (iii) RedX, LLC (a lead vendor used
7 by Ms. Gaitan); and (iv) Twilio, Inc. (a telecommunications provider that likely is in possession
8 of calling and text message detail records). Plaintiff has yet to receive any substantive responses
9 to these subpoenas.

10 **II. DISCOVERY REMAINING TO BE COMPLETED**

11 10. Mr. Garvey still needs to obtain class discovery from Ms. Gaitan and, as explained
12 in more detail below, is in the process of doing so. In addition, the parties still need to make their
13 expert disclosures, including Plaintiff's and Defendant Gaitan's expert disclosures and rebuttal
14 disclosures as well as the depositions of those experts. Mr. Garvey is unable to make these
15 disclosures until he has had an opportunity to review class discovery and data produced from the
16 calling and texting systems with his experts.

17 **III. REASON WHY MORE TIME IS NEEDED FOR DISCOVERY**

18 11. This is the first requested extension of discovery.

19 12. Mr. Garvey seeks call and text message detail records with respect to the calls and
20 text messages made to the putative classes. A review of this information, by both Plaintiff and
21 Plaintiff's expert(s) is important to Plaintiff's class certification motion. This information will also
22 inform Plaintiff as to what experts Plaintiff believes are necessary for class certification and
23 liability. Plaintiff has not yet been able to obtain these necessary documents and information.

24 13. On June 25, 2024, Defendant Gaitan's former counsel represented that counsel was
25 working with Defendant Gaitan's third-party marketing vendors to obtain the relevant call and text
26 logs for production, but was receiving slow response from the third party vendor's support teams.

27 14. On June 28, 2024, Defendant Gaitan produced only call and text logs with respect
28 to Plaintiff.

1 15. The parties continued to meet and confer regarding the call and text message detail
2 records while they negotiated the stipulated protective order.

3 16. On September 17, 2024, Plaintiff requested a formal meet and confer with Ms.
4 Gaitan's former counsel with respect to these issues as well as others.

5 17. On September 25, 2024, Ms. Gaitan's former counsel advised that substitute
6 counsel would be entering an appearance in the case and that new counsel would conduct any meet
7 and confers going forward.

8 18. On October 3, 2024, Ms. Gaitan's new counsel made a motion to substitute as
9 counsel, [ECF No. 69], which was subsequently granted on October 4, 2024 [ECF No. 70].

10 19. Thereafter, on October 10, 2024, the parties held a meet and confer on the discovery
11 issues.

12 20. Ms. Gaitan was deposed on October 16, 2024. During her deposition, Ms. Gaitan
13 testified that she used third party vendor HighLevel, Inc. to send the text messages and make the
14 prerecorded calls at issue in this case. She further testified that she made efforts to obtain the call
15 and text message detail records from the system, but could not.

16 21. On October 17, 2024, in an attempt to obtain the call and text message detail records
17 related to the classes, Plaintiff issued a document subpoena to HighLevel, Inc. HighLevel, Inc.'s
18 counsel recently requested an extension of time to respond to the subpoena to November 22, 2024.

19 22. In addition, Plaintiff understands that Ms. Gaitan, with the assistance of her new
20 counsel, is working with a third party consultant to assist with obtaining the records. Mr. Garvey
21 is also seeking records of the leads that were input into the HighLevel from third parties, as Ms.
22 Gaitan testified that she does not have records in her possession.

23 23. The above records are integral to Mr. Garvey's ability to determine what experts,
24 if any, are required for Mr. Garvey's forthcoming class certification motion. Without these records
25 and documents, Mr. Garvey is unable to determine what experts he needs to engage and he is not
26 able to have an expert report prepared by the current deadline, nor is he able to prepare a class
27 certification motion.

24. This data is critical to the parties' respective case preparation; and therefore, additional time is needed for the parties to obtain this information and engage experts.

25. Mr. Garvey contacted Defendant Gaitan with respect to this request and Defendant Gaitan indicated she is unopposed.

IV. CURRENT DEADLINES AND PROPOSED DEADLINES

Event	Current Deadline	Proposed Deadline
Class Certification Expert Disclosures	November 4, 2024	February 3, 2025
Class Certification Rebuttal-Expert Disclosures	December 2, 2024	March 3, 2025
Class Certification Motion	December 16, 2024	March 17, 2025
Liability Expert Report Disclosure	April 14, 2025	July 14, 2025
Liability Expert Rebuttal Report Disclosure	May 12, 2025	August 11, 2025
Discovery cutoff	June 16, 2025	September 15, 2025
Dispositive motions	July 14, 2025	October 13, 2025
Pretrial Order	August 11, 2025	November 10, 2025

Accordingly, the parties request that the dates be extended by three months.

Dated: November 6, 2024

Respectfully submitted,

/s/ Chris R. Miltenberger

Chris R. Miltenberger, Esquire*

The Law Office of Chris R. Miltenberger,
PLLC

1360 N. White Chapel, Suite 200

Southlake, Texas 76092-4322

817-416-5060 (office)

817-416-5062 (fax)

chris@crmlawpractice.com

Subject to Pro Hac Vice

CRAIG K. PERRY & ASSOCIATES

6210 N. Jones Blvd. #753907

Las Vegas, Nevada 89136-8985

Telephone: (702) 228-4777
Facsimile: (702) 943-7520
cperry@craigperry.com

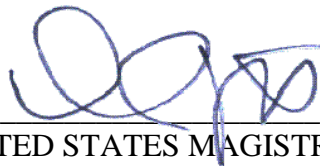
Max S. Morgan, Esquire*
THE WEITZ FIRM, LLC
1515 Market Street, #1100
Philadelphia, PA 19102
Tel: (267) 587-6240
Fax: (215) 689-0875
max.morgan@theweitzfirm.com

**Subject to Pro Hac Vice*

 w/ permission
Melissa A. Saragosa-Stratton, No. 7295
Robert McCoy, No. 9121
Sihomara L. Graves, No. 13239
KAEMPFER CROWELL
1980 Festival Plaza Drive, Suite 650
Las Vegas, Nevada 89135
Telephone: (702) 792-7000
Facsimile: (702) 796-7181
Email: rmccoy@kcnvlaw.com
Email: sgraves@kcnvlaw.com

ORDER

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 11/7/2024

CERTIFICATE OF SERVICE

I certify that on the date below I electronically filed the foregoing document and that it is available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

BY: /s/Chris Miltenberger
CHRIS MILTENBERGER